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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,963	09/10/2003	Peter J. Iskiyan	42P15887	5881

7590

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EXAMINER

AUVE, GLENN ALLEN

ART UNIT

PAPER NUMBER

2111

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/659,963	<b>Applicant(s)</b> ISKIYAN ET AL.	
	<b>Examiner</b> Glenn A. Auve	<b>Art Unit</b> 2111	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,6,12 and 17 is/are allowed.
- 6) ☒ Claim(s) 2-5,7-11,13-16 and 18-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/24/2005</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 7-11 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 12, paragraph [0034], the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., ROM, RAM, magnetic storage media, optical storage media, flash memory devices) and intangible embodiments (e.g., carrier waves, infrared signals, digital signals). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4,5,8-10,13-16 and 18-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is rejected because it is not clear if each of the first plurality of pointers points to a respective one of the capability structures or if all of the pointers points to the same one capability structure. It is also not clear whether the pointers which are stored in the capability structures are also used to point to capability structures.

Claim 5 is rejected because it depends on claim 4.

Claims 8 and 10 are rejected based on lack of positive antecedent basis of "the method" on line 1 of each claim.

Claim 9 is rejected because it depends on claim 8.

Claim 10 is also rejected because it is not clear if each of the first plurality of pointers points to a respective one of the capability structures or if all of the pointers points to the same one capability structure. It is also not clear whether the pointers which are stored in the capability structures are also used to point to capability structures.

Claim 13 is rejected because it is not clear what occurs in the case where there is only one capability structure. Since the claims recite one or more capability structures it is not clear how the structures could be coupled to each other if there is only one.

Claim 14 is rejected because it depends on claim 13.

Claim 15 is also rejected because it is not clear if each of the first plurality of pointers points to a respective one of the capability structures or if all of the pointers points to the same one capability structure. It is also not clear whether the pointers which are stored in the capability structures are also used to point to capability structures.

Claim 16 is rejected because it depends on claim 15.

Claim 18 is rejected based on lack of positive antecedent basis of "the plurality of capability structures" on lines 5-6.

Claims 19-24 are rejected because they depend on claim 18.

Claim 21 is also rejected because it is not clear if each of the first plurality of pointers points to a respective one of the capability structures or if all of the pointers points to the same one capability structure. It is also not clear whether the pointers which are stored in the capability structures are also used to point to capability structures.

***Allowable Subject Matter***

4. Claims 1,6,12, and 17 are allowed.

5. The following is an examiner's statement of reasons for allowance: the independent claims include the limitations of a pointer for each port of a plurality of ports of the multi-port device, and storing the first plurality of pointers in one or more capability structures of the multi-port device. These limitations are not shown by the prior art and would not have been obvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show Advanced Switching systems, but they do not show the claimed details.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn A. Auve whose telephone number is (571) 272-3623. The examiner can normally be reached on M-F 8:00 AM-5:30 PM, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (571) 272-3632. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2111

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Glenn A. Auve', is positioned above the printed name.

Glenn A. Auve  
Primary Examiner  
Art Unit 2111

gaa  
14 February 2006